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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/821,106

03/29/2001

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12/19/2005

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EXAMINER

ALPERT, JAMES M

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/821,106

Applicant(s)

WIESEHUEGEL ET AL.

Examiner

James Alpert

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/29/2001.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

The application, filed March 29, 2001, has been examined, and Claims 1-15 are pending. The objections and rejections are as stated below.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

With regard to Claims 11-15, the claimed invention is directed to non-statutory subject matter. Whether a claimed invention relating to business methods is directed to statutory subject matter is governed by State Street Bank & Trust Co. v. Signature Financial Group Inc., 149 F. 3d 1368, 1374, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). Pursuant to the holding in this case, computer claims should be treated like any other process claims (MPEP § 2106). Claims 11-15 relate to a "proxy agent" comprising various characteristics. The claims are on their face non-statutory, as a "proxy agent" is not a process nor is it a machine, manufacture of composition of matter. The examiner believes that Applicant may intend the "agent" to represent a computer system for implementation of the method, but this should be claimed as such.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

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351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2 are rejected under 35 U.S.C. §102 as being anticipated by Montgomery, U.S. Patent Application Publication #20020038282.

With regard to Claims 1,6,11, Montgomery teaches the method, medium and agent comprising:

providing a bid parameter set, having one or more proxy bid parameters
(Paras. 20,62)

said proxy bid parameters indicating proxy conditions for at least one offering or auction to which proxy bidding is to be made; (Para. 62)

checking at least one current bid level in a bid data store of an offering or auction system; (Figure 11, Item 1104)

determining if any of said proxy conditions have been met;
(Paras. 20,62; Figure 11, 1106; Claim 1[f])

and placing a counter bid into at least one auction responsive to said proxy conditions being met. (Claim 1[g])

With regard to Claims 2,7,12, Montgomery teaches the method medium and agent comprising:

determining if said current bid level is below an indicated bid maximum parameter in said proxy bid parameters. (Figure 11, Items 1104-1106)

With regard to Claims 3,8,13, Montgomery does not appear to expressly disclose the method medium and agent comprising:

determining if a specified time during an auction open period has not been reached yet such that a specified maximum bid may be placed before such specified time.
(Paras. 20, 62; Claims 1[f-g])

With regard to Claims 4,9,14, Montgomery teaches the method medium and agent comprising:

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determining if a specified time prior to an auction close time has been reached such that a specified maximum bid may be placed after such specified time.
(Para. 20, Claims 1[f-g])


With regard to Claims 5,10,15, Montgomery teaches the method medium and agent comprising:

determining if a minimum amount of time has elapsed since said current bid was placed. (Paras. 20, 62)

Conclusion

THIS ACTION IS NON-FINAL. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Alpert whose telephone number is (571) 272-6738. The examiner can normally be reached on M-F 9:30-6:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.


James M. Alpert
December 5, 2005



VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
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